

**Title 19-A: DOMESTIC RELATIONS HEADING:
PL 1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff)**

**Chapter 53: PATERNITY HEADING: PL
1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff)**

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Maine Revised Statutes

Title 19-A: DOMESTIC RELATIONS HEADING: PL 1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff)

Chapter 53: PATERNITY HEADING: PL 1995, c. 694, Pt. B, §2 (new); Pt. E, §2 (aff)

Subchapter 1: UNIFORM ACT ON PATERNITY HEADING: PL 1995, C. 694, PT. B, §2 (NEW); PT. E, §2 (AFF)

§1551. SHORT TITLE

This subchapter is known and may be cited as the "Uniform Act on Paternity." [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§1552. OBLIGATIONS OF FATHER

The father of a child who is or may be born out of wedlock is liable to the same extent as the father of a child born in wedlock, whether or not the child is born alive, for the reasonable expense of the mother's pregnancy and confinement and for the education, support and funeral expenses of the child. [2005, c. 323, §10 (AMD).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 2005, c. 323, §10 (AMD).

§1553. ENFORCEMENT

Paternity may be determined upon the complaint of the mother, the alleged father, the child or the public authority chargeable by law with the support of the child. If paternity has been determined or has been acknowledged according to the laws of this State, the liabilities of the father may be enforced in the same or other proceedings by the mother, the child or the public authority that has furnished or may furnish the reasonable expenses of pregnancy, confinement, education, support or funeral expenses, and by other persons, including private agencies, to the extent that they have furnished the reasonable expenses of pregnancy, confinement, education, support or funeral expenses. Bills and records of expenses paid for pregnancy, child birth and genetic testing are admissible as evidence without requiring 3rd-party foundation testimony and are prima facie evidence of amounts incurred for those services or for testing on behalf of the child. Chapter 63 applies to an award of past support, which is calculated by applying the current child support guidelines to the period for which past support is owed. [1997, c. 537, §16 (AMD); 1997, c. 537, §62 (AFF).]

In execution of the powers given the court under this subchapter, the court may employ any compulsory process that it determines proper, by execution, attachment or other effectual form, on which costs are taxed as in other actions. The court may enforce a support order established under this subchapter as provided in chapter 65. A determination or modification of child support under this section must comply with chapter 63. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1997, c. 537, §16 (AMD). 1997, c. 537, §62 (AFF).

§1554. LIMITATION ON RECOVERY FROM FATHER

The father's liabilities for past education and support are limited to the 6-year period preceding the commencement of an action. [1997, c. 537, §17 (AMD); 1997, c. 537, §62 (AFF).]

A complainant may commence an action at any time prior to the child's 18th birthday. Notwithstanding the effective date of this paragraph, an action may be commenced for the benefit of a child whose paternity has not been established or to establish paternity of a child for whom an action had been commenced but dismissed because a statute of limitations of less than 18 years was then in effect. [1997, c. 537, §17 (AMD); 1997, c. 537, §62 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1997, c. 537, §17 (AMD). 1997, c. 537, §62 (AFF).

§1555. LIMITATIONS ON RECOVERY FROM FATHER'S ESTATE

The obligation of the estate of the father for liabilities under this subchapter are limited to amounts accrued prior to his death and sums that may be payable for dependency under other laws. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§1556. REMEDIES

The District Court has jurisdiction over an action to determine parentage. There is no right to demand a jury trial in an action to determine parentage. The District Court has jurisdiction for the enforcement of judgments for expenses of pregnancy and confinement for a wife or for education, support or funeral expenses for legitimate children and all remedies for the enforcement of these judgments apply. The court has continuing jurisdiction to modify or revoke a judgment for future education and support. All remedies under the Uniform Interstate Family Support Act are available for enforcement of duties of support under this subchapter. [2001, c. 471, Pt. A, §23 (RPR).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1999, c. 704, §1 (AMD). 1999, c. 731, §ZZZ32 (AMD). 1999, c. 731, §ZZZ42 (AFF). 2001, c. 471, §A23 (RPR).

§1557. TIME OF TRIAL

If the issue of paternity is raised in an action commenced during the pregnancy of the mother, the trial may not, without the consent of the alleged father, be held until after the birth or miscarriage. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1999, c. 704, §2 (AMD).

§1558. AUTHORITY FOR BLOOD OR TISSUE-TYPING TESTS

The court, upon its own initiative or upon suggestion made by or on behalf of a person whose blood or tissue is involved or the mother, may order or, upon motion of a party to the action made at a time so as not to delay the proceedings unduly, shall order the mother, child and alleged father to submit to blood or tissue typing tests, which may include, but are not limited to, tests of red cell antigens, red cell isoenzymes, human leukocyte antigens and serum proteins. If a party refuses to submit to those tests, the court may resolve

the question of paternity against that party or may enforce the order, if the rights of others and the interests of justice so require. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§1559. SELECTION OF EXPERTS

The tests required by the court order under section 1558 must be made by experts qualified as examiners of blood or tissue types who are appointed by the court. The experts may be called by the court as witnesses to testify to their findings and may be subject to cross-examination by the parties. A party or person at whose suggestion the tests have been ordered may demand that other experts, qualified as examiners of blood or tissue types, perform independent tests under order of court, the results of which may be offered in evidence. The court shall determine the number and qualifications of those experts. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§1560. COMPENSATION OF EXPERT WITNESSES

The court shall set the compensation of each expert witness appointed by the court at a reasonable amount. The court may order the parties to pay the compensation in appropriate proportions and may order when the payments are to be made. The court may order that, after payment by the parties, all, part or none of the compensation may be taxed as costs in the action. The fee of an expert witness called by a party but not appointed by the court must be paid by the party calling the expert witness and may not be taxed as costs in the action. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§1561. EFFECT OF TEST RESULTS

1. Effect of results. The results of the tests required pursuant to section 1558 are evidence to be used in determining paternity as follows.

A. If the court finds that the conclusion of all the experts, as disclosed by the evidence based upon the tests, is that the alleged father is not the parent of the child, the question of paternity must be resolved accordingly. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. If the experts disagree in their findings or conclusions, the question must be submitted upon all the evidence. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

C. If the experts conclude that the blood or tissue tests show that the alleged father is not excluded and that the probability of the alleged father's paternity is less than 97%, this evidence must be admitted by the court and weighed with other competent evidence of paternity. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

D. If the experts conclude that the blood or tissue tests show that the alleged father is not excluded and that the probability of the alleged father's paternity is 97% or higher, the alleged father is presumed to be the father, and this evidence must be admitted. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

The court shall admit as evidence the results of any genetic test that is of a type generally acknowledged as reliable by accreditation bodies designated by the federal Secretary of the Department of Health and Human Services and performed by a laboratory approved by such an accredited body.

[1997, c. 537, §18 (AMD); 1997, c. 537, §62 (AFF) .]

2. Chain of custody; evidence. Notarized documentation of the chain of custody of the blood and tissue samples is competent evidence to establish the chain of custody.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

3. Notarized reports; challenges. A notarized report of the blood and tissue tests, prepared by the appointed experts, must be admitted at trial, unless a written challenge to the testing procedure or the results of the blood and tissue tests has been filed with the court and delivered to opposing counsel at least 30 days before a hearing set to determine the issue of paternity. Failure to make that timely challenge constitutes a waiver of the right to have the experts appear in person and is not grounds for a continuance of the hearing to determine paternity.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1997, c. 537, §18 (AMD). 1997, c. 537, §62 (AFF).

§1562. REBUTTAL OF PRESUMPTION

An alleged father or a mother may rebut the presumption of paternity contained in section 1561, subsection 1, paragraph D by clear and convincing evidence. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§1563. ADMISSIBLE EVIDENCE

1. Evidence of paternity; admissible. In an action brought under this subchapter, evidence relating to paternity may include, but is not limited to:

A. An expert's opinion concerning the time of conception; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. Evidence of sexual intercourse between the mother and alleged father at a possible time of conception; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

C. Medical, scientific or genetic evidence relating to the alleged father's paternity of the child based upon tests performed by experts; or [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

D. The statistical probability of the alleged father's paternity based upon the blood or tissue tests. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

2. Inadmissible evidence. Testimony relating to sexual relations or possible sexual relations of the mother at a time other than the probable time of conception of the child is inadmissible in evidence, unless offered by the mother.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§1564. PRESUMPTION OF LEGITIMACY NOT APPLICABLE

1. Presumption not applicable. The presumption of legitimacy provided in the Maine Rules of Evidence, Rule 302 does not apply if:

A. The experts conclude that reliable blood or tissue tests show that the presumed father is not the biological parent of the child; or [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. The experts conclude that reliable blood or tissue tests show that the alleged father is not excluded and that the probability of the alleged father's paternity is 97% or higher. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§1565. JUDGMENT

1. Support. Judgments under this subchapter may be for periodic payments that may vary in amount. The court may order payments to be made to the person to whom the support is owed or to the person, corporation or agency designated to administer payments under the supervision of the court.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

2. Parental rights and responsibilities. The court may order an initial allocation of parental rights and responsibilities. The order of the court must provide notice that if either party objects to the allocation, that party may file a complaint pursuant to section 1654 and that an order from that action supersedes this initial allocation of parental rights and responsibilities. It is within the court's discretion to award or allocate parental rights and responsibilities under this subchapter and the department is not a party to this issue. In resolving parental rights and responsibilities issues, the court may not delay entering a determination of paternity and an initial order concerning child support. After a final paternity order has been entered, the department may file a motion to withdraw. Whether or not the department has withdrawn, a party or a parent may file a motion to modify pursuant to section 1653 or section 2009. A copy of the motion must be served in accordance with the Maine Rules of Civil Procedure on the other parent and the department, if the department has not withdrawn. A showing of substantial change in circumstances is not required if the moving party has not previously appeared in the action.

[2007, c. 164, §1 (AMD) .]

3. Temporary support order. Upon motion by a party to a contested paternity action, the court shall issue a temporary child support order if the alleged father is presumed to be the father as a result of genetic testing, as provided by Title 19-A, section 1561, subsection 1, paragraph D. The order must be determined according to the child support guidelines as provided under chapter 63.

[1997, c. 537, §19 (NEW); 1997, c. 537, §62 (AFF) .]

4. Disclosure and recording of social security numbers. A person who is a party to a paternity action shall disclose that person's social security number to the court. The social security number of a person who is subject to a judgment of paternity must be placed in the court records relating to the judgment of paternity. The record of a person's social security number is confidential and is not open to the public. The court shall disclose a person's social security number to the department for child support enforcement purposes.

[1997, c. 537, §19 (NEW); 1997, c. 537, §62 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1997, c. 537, §19 (AMD). 1997, c. 537, §62 (AFF). 2007, c. 164, §1 (AMD).

§1566. SECURITY

Upon motion of the plaintiff, the court at a time before or after judgment may require the alleged or adjudicated father to give bond or other security for the payment of a judgment that exists or may exist in the future. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§1567. SETTLEMENT AGREEMENTS

An agreement of settlement with the alleged father is binding only when approved by the court. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§1568. VENUE

An action under this subchapter may be brought in the county or district where the alleged father is present or has property or in the county or district where the mother or child resides. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§1569. UNIFORMITY OF INTERPRETATION

This subchapter must be interpreted and construed so as to effectuate its general purpose to make uniform the laws of those states that enact it. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§1570. RULES OF CIVIL PROCEDURE

1. Procedure. The rules of civil procedure apply to this subchapter in all cases of birth out of wedlock when the birth occurs after October 7, 1967.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

2. Dismissal without prejudice. Dismissals of paternity actions must be without prejudice in all cases except:

A. When an adjudication on the merits has occurred; or [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. When the department is a party to the action and the department consents to the dismissal with prejudice. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

Subchapter 2: EXPEDITED PROCESS FOR THE COMMENCEMENT OF PATERNITY ACTIONS HEADING: PL 1995, C. 694, PT. B, §2 (NEW); PT. E, §2 (AFF)

§1601. DEFINITIONS

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

1. Alleged father. "Alleged father" means:

A. A man who is alleged to have engaged in sexual intercourse with a child's mother during a possible time of conception of the child; or [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

B. A man who is presumed to be a child's father under the Maine Rules of Evidence, Rule 302. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

2. Blood or tissue-typing tests. "Blood or tissue-typing tests" means tests that demonstrate through examination of genetic markers the paternity of a child.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

3. Paternity proceeding. "Paternity proceeding" means the administrative proceeding provided in this subchapter for the commencement of an action to establish paternity under subchapter I.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§1602. ADDITIONAL PERSONS SUBJECT TO JURISDICTION

1. Application. To ensure maximum protection to citizens of this State, the department shall apply this section to assert jurisdiction over nonresident alleged fathers to the fullest extent permitted by the due process clause of the United States Constitution, Amendment XIV.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

2. Cause of action. A person who engages in sexual intercourse with a resident of this State in this State submits to the jurisdiction of the department for the purpose of the commencement of a paternity proceeding.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§1603. LIMITATION ON RECOVERY FROM FATHER

An alleged father's liability for past expenses incurred is limited to the 6 years preceding service of the notice under section 1605. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§1604. SERVICE

Service of a notice under section 1605 must be made by personal service as provided for personal service of summons by the Maine Rules of Civil Procedure, Rule 4(d). Personal service within the State of a notice under section 1605 may be made by an authorized representative of the commissioner. Personal service outside the State of a notice under section 1605 may be made in the manner provided for personal service of summons outside the State by the Maine Rules of Civil Procedure, Rule 4(e). [2009, c. 290, §5 (AMD) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 2009, c. 290, §5 (AMD) .

§1605. NOTICE OF PROCEEDING TO COMMENCE AN ACTION

1. Notice of proceeding. The department may commence a paternity proceeding by serving a notice on an alleged father. The department may not serve such a notice unless it has a sworn statement or affirmation under the penalty for unsworn falsification from the child's mother claiming that the alleged father engaged in sexual intercourse with her during a possible time of conception of the child or is a man who is presumed under state law to be the child's father. If the mother is a minor, the sworn statement or affirmation may be that of the guardian or next friend of the mother.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

2. Contents of notice. In addition to conforming with the requirements of Title 5, section 9052, subsection 4, the notice must include:

A. A statement that service of the notice on the alleged father constitutes the commencement of a paternity proceeding for the determination of paternity and any related issues under this chapter;

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

B. A statement identifying any of the following as the reason for filing the record of the proceeding in court.

- (1) The alleged father fails to deny paternity.
- (2) The alleged father refuses to submit to blood or tissue-typing tests.
- (3) The alleged father fails to execute and deliver to the department an acknowledgment of paternity; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

C. A statement that, if the department files a record of the proceeding, the department may seek relief under section 1606; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

D. The child's name and place and date of birth; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

E. The name of the child's mother and the name of the person or agency having custody of the child, if other than the mother; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

F. The probable date on or period during which the child was conceived; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

G. An allegation that the alleged father engaged in sexual intercourse with the child's mother during a possible time of conception of the child or is a man who is presumed to be the child's father under state law, and that the alleged father is or may be the biological father of the child; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

H. If applicable, an allegation that the child may have been conceived as a result of sexual intercourse in this State and that the alleged father is subject to personal jurisdiction under section 1602; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

I. A statement that the alleged father may deny the allegation of paternity by filing a written denial of paternity with the department within 20 days after service of the notice; that if the alleged father fails to file a written denial, the proceeding will be filed in a court as a paternity proceeding; and that the question of paternity and any related issues under this chapter may be resolved against him by the court; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

J. A statement that if the alleged father files a written denial of paternity:

- (1) The department will provide an expert examiner of blood or tissue types to conduct blood or tissue-typing tests on the mother, child and alleged father and the tests will be conducted as follows.
 - (a) The alleged father is required to submit to tests, which may include, but are not limited to, tests of red cell antigens, red cell isoenzymes, human leukocyte antigens and serum proteins.
 - (b) The department will pay the initial cost of the tests.
 - (c) An indigent alleged father is not liable for reimbursement of the cost of the tests;
- (2) If the alleged father refuses to submit to tests under subparagraph (1), the proceeding will be filed in a court as a paternity proceeding;
- (3) If the alleged father is not excluded by the test results and he does not, within 15 days of the ordinary mailing to him of a report and copy of the blood or tissue-typing results, execute and deliver to the department an acknowledgment of paternity of the child in accordance with the laws of the state in which the child was born, the proceeding will be filed in a court as a paternity proceeding; and

(4) If the alleged father is excluded by the test results as the biological father of the child, the proceeding will be filed in a court as a paternity proceeding for disposition under section 1561, subsection 1, paragraph A; [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

K. A statement that if, prior to the filing in a court, the alleged father executes and delivers to the department and the department accepts an acknowledgment of paternity, the proceeding must terminate and the department may proceed against him under chapter 65, subchapter II, article 3; [2001, c. 554, §3 (AMD).]

L. A statement that the alleged father may, within 25 days after notice has been mailed to him that the record has been filed in a court, assert any defense, in law or fact, if the record is filed because the alleged father:

(1) Refuses to submit to blood or tissue-typing tests; or

(2) Fails to execute and deliver to the department an acknowledgment of paternity; and [2001, c. 554, §3 (AMD).]

M. A statement that the department may require the alleged father to submit to blood or tissue-typing tests prior to accepting an acknowledgment of paternity if it appears that there may be more than one alleged father, and may file the action in court if the alleged father refuses to submit to testing. [2001, c. 554, §4 (NEW).]

[2001, c. 554, §§3, 4 (AMD) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 2001, c. 554, §§3,4 (AMD).

§1606. COURT ORDERS; RELIEF

The department may request that the court: [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

1. Establish as biological father. Establish the alleged father as the biological father of the child;

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

2. Child support. Order the alleged father to make child support payments as required under chapter 63;

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

3. To whom payments made. Order the alleged father to make support payments directly to the department whenever the mother is receiving Temporary Assistance for Needy Families benefits from the department for the child or is a support enforcement client of the department and at all other times directly to the mother;

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF); 1997, c. 530, Pt. A, §34 (AMD) .]

4. Past support. Order the alleged father to pay past support to the mother or the department or other payor of public assistance, as applicable, for the past support, birth expenses and medical expenses incurred on behalf of the child to the time of trial and grant judgment to the mother or the department or other payor of public assistance, as applicable with execution to issue immediately. A judgment for past support is calculated by applying the current child support guidelines to the period for which past support is owed;

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

5. Medical expenses. Order the alleged father to pay all reasonable medical, dental, hospital and optical expenses for the child, to provide medical and health insurance coverage for the child and to provide evidence of that coverage to the department under section 2605;

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

6. Attorney's fees.

[2005, c. 323, §11 (RP) .]

7. Income withholding period. Order income withholding as available under or required by law; and

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

8. Other relief. Grant such other relief as the court determines just and proper, including an initial allocation of parental rights and responsibilities as allowed by section 1565.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1997, c. 530, §A34 (AMD). 2005, c. 323, §11 (AMD).

§1607. APPLICABILITY; MAINE RULES OF CIVIL PROCEDURE, RULE 5(B)

The Maine Rules of Civil Procedure, Rule 5(b) applies to a proceeding under this chapter. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§1608. MULTIPLE ALLEGED FATHERS

When it appears to the department that there may be more than one alleged father, the department may maintain proceedings against each alleged father, simultaneously or successively. Failure to serve a notice on an alleged father does not bar the department from maintaining a proceeding under this chapter against any other alleged father. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

When the department initiates proceedings against one alleged father when there may be more than one alleged father, the department may require the parties to submit to blood or tissue-typing tests prior to accepting an acknowledgment of paternity from the alleged father. If the alleged father refuses to participate in testing, the department may file the action in court. [2001, c. 554, §5 (NEW) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 2001, c. 554, §5 (AMD) .

§1609. FAILURE OF ALLEGED FATHER TO DENY PATERNITY

1. Filing of record of proceeding in court. If the alleged father fails to file a written denial of paternity with the department within 20 days after service of notice upon him, the department's attorney may file the record of the proceeding in a court as a paternity action. The filing of the record, along with proof of service pursuant to section 1604, constitutes a filing under the Maine Rules of Civil Procedure, Rule 3(1) and further service is not required.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

2. Failure to file written denial constitutes default. The alleged father's failure to file a written denial with the department constitutes a default under the Maine Rules of Civil Procedure, Rule 55(a). The department shall forward to the alleged father by ordinary mail a copy of any request for a default judgment. The mailing of the request to the alleged father's last known address constitutes adequate notice of the default proceeding and further notice is not required.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§1610. BLOOD OR TISSUE-TYPING TESTS

1. Requirement of tests. If the alleged father files a written denial of paternity with the department within 20 days after service of the notice upon him, the department shall schedule blood or tissue-typing tests for the mother, the child and the alleged father, which may include, but are not limited to, tests of red cell antigens, red cell isoenzymes, human leukocyte antigens and serum proteins. The tests must be performed by an expert examiner in a laboratory that is accredited for parentage testing by the American Association of Blood Banks.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

2. Scheduling of tests. The department shall notify the alleged father in writing by ordinary mail of the date, time and place of his blood or tissue-typing tests. The tests must be conducted no earlier than 15 days following the mailing of the department's notice, except with the consent of the alleged father. The tests must be conducted in an office of the department, when practicable. The department shall take into account the alleged father's place of residence or employment in selecting the location of the tests.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

3. Rescheduling of tests. If the alleged father does not submit to the tests, the department shall notify him in writing by ordinary mail that if he does not, within 15 days, request the department to reschedule the tests, his failure to appear constitutes a refusal to submit to the tests. If the alleged father timely requests rescheduling, the department shall reschedule the tests. The rescheduled tests must be conducted no earlier than 15 days following the mailing of the notice of rescheduling. The notice must also advise the alleged father that, if he fails to submit to the rescheduled tests, the failure constitutes a refusal to submit to the tests.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

4. Additional genetic testing. If additional samples are needed to complete genetic testing, the department may require the mother, alleged father and child to submit to additional testing. If a person refuses to submit to additional testing, the court, upon motion by the department, may resolve the question of paternity against that person or order the person to submit to testing. If an original test result is contested, upon request and advance payment by the contestant, the department shall obtain additional test results.

[1997, c. 537, §20 (NEW); 1997, c. 537, §62 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 1997, c. 537, §20 (AMD). 1997, c. 537, §62 (AFF).

§1611. REFUSAL OF ALLEGED FATHER TO SUBMIT TO BLOOD OR TISSUE-TYPING TESTS

1. Filing of record in court. If the alleged father denies paternity and subsequently fails to submit to blood or tissue-typing testing, the record may be filed in court as a paternity action and the department may seek an adjudication of paternity pursuant to section 1558. The alleged father's refusal to submit to a blood or tissue-typing test constitutes a refusal to submit under section 1558. The filing of the record, along with proof of service pursuant to section 1604, constitutes compliance with the Maine Rules of Civil Procedure, Rule 3(1).

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

2. Notice of filing. The department shall send to the alleged father by ordinary mail notice of the filing of the paternity proceeding and a request under section 1558. Within 20 days of the mailing of this notice, the alleged father may assert any defense, in law or fact.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

3. Request for default judgment or order. The department shall forward to the alleged father by ordinary mail a copy of any request for a default judgment or an order pursuant to section 1558. If the alleged father does not notify the court in writing within 20 days of the date the department's request was mailed that he opposes the relief requested by the department, the court may grant the relief requested without a hearing. Any notice mailed must contain the substance of this section.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§1612. PROCEDURES AFTER BLOOD OR TISSUE-TYPING TESTS

1. Transmittal of test results. Upon receipt of the results of the tests, the department shall send copies of the results by ordinary mail to the alleged father and to the child's mother or to the mother's guardian or next friend if the mother is a minor.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

2. Exclusion of alleged father. If the alleged father is excluded by the test results as the biological father of the child, the department may file the record of the proceeding in a court as a paternity proceeding for disposition under section 1561, subsection 1, paragraph A.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

3. Nonexclusion of alleged father. If the alleged father is not excluded by the test results and he does not, within 15 days of the mailing to him of a copy of the blood or tissue-typing test results and report, execute and deliver to the department by ordinary mail an acknowledgment of paternity of the child in accordance with the laws of the state in which the child was born, the department may file the record of the proceeding, including the blood or tissue-typing test results, in a court as a paternity proceeding. Section 1561 applies to the action even though the tests were performed and the results prepared as part of an administrative proceeding. The alleged father's participation in the tests may not prejudice any application by the alleged father under section 1559 for an order appointing an additional examiner of blood or tissue types.

[1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§1613. APPLICABILITY; MAINE RULES OF CIVIL PROCEDURE, RULE 12(B)

If a record of the proceeding is filed under section 1611 or section 1612, subsection 3, the alleged father is not required to file an additional denial of paternity. He may assert any defense, in law or fact. Any defense must be asserted within 25 days after the mailing by ordinary mail of a notice to the alleged father that the record has been filed in court. The notice must contain the substance of this section. [1995, c. 694, Pt. B, §2 (NEW); 1995, c. 694, Pt. E, §2 (AFF).]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF).

§1614. ACKNOWLEDGMENT OF PATERNITY

If, prior to the filing in a court, the alleged father executes and delivers to the department an acknowledgment of paternity of the child in accordance with the laws of the state in which the child was born, and if the department does not require the alleged father to participate in blood or tissue-typing tests, the proceeding must be terminated and the department may proceed against the father under chapter 65, subchapter II, article 3 with respect to any remedy provided under that article. [2001, c. 554, §6 (AMD) .]

SECTION HISTORY

1995, c. 694, §B2 (NEW). 1995, c. 694, §E2 (AFF). 2001, c. 554, §6 (AMD).

§1615. REPRESENTATION OF DEPARTMENT

The commissioner may designate employees of the department who are not attorneys to file the record of proceedings commenced under this subchapter in District Court and to represent the department in court in both those proceedings and proceedings filed by other parties. The commissioner shall ensure that appropriate training is provided to all employees designated to represent the department under this subchapter. [2005, c. 352, §2 (AMD) .]

§1615. Voluntary acknowledgment of paternity

(As enacted by PL 1997, c. 537, §21 is REALLOCATED TO TITLE 19-A, SECTION 1616)

SECTION HISTORY

RR 1997, c. 1, §15 (RAL). 1997, c. 466, §3 (NEW). 1997, c. 466, §28 (AFF). 1997, c. 537, §21 (NEW). 1997, c. 537, §62 (AFF). 2005, c. 352, §2 (AMD).

§1616. VOLUNTARY ACKNOWLEDGMENT OF PATERNITY

(REALLOCATED FROM TITLE 19-A, SECTION 1615)

1. Legal finding of paternity. A signed voluntary acknowledgment of paternity is a legal finding of paternity, subject to the right of a signatory to rescind the acknowledgment within the earlier of 60 days or the date of an administrative or judicial proceeding relating to the child, including a proceeding to establish a support order, in which the signatory is a party. After the right to rescind ends, the acknowledgment may be challenged in court only on the basis of fraud, duress or material mistake of fact with the burden of proof on the challenger and under which the legal responsibilities of a signatory arising from the acknowledgment, including child support obligations, may not be suspended during the challenge except for good cause shown.

[1997, c. 1, §15 (RAL) .]

2. Notice. Before a mother and putative father may sign an acknowledgment of paternity, the mother and the putative father must be given oral and written notice of the alternatives to, the legal consequences of and the rights and responsibilities that arise from signing the acknowledgment.

[1997, c. 1, §15 (RAL) .]

3. Full faith and credit. The State shall give full faith and credit to an acknowledgment of paternity signed in any other state according to that state's procedures.

[1997, c. 1, §15 (RAL) .]

4. Bar on acknowledgment ratification proceedings. Legal proceedings are not required or permitted to ratify an unchallenged acknowledgment of paternity.

[1997, c. 1, §15 (RAL) .]

SECTION HISTORY

RR 1997, c. 1, §15 (RAL).

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